

[Mr. M. Krishnan Nayar]

[30th January 1923]

circumstances to include this as a dissenting minute. Independently I gave notice of this amendment. Then, Sir, with reference to the report of the Committee, you suggest to me the desirability of having this amendment postponed so as to be considered along with the other amendments to the Standing Orders. But I beg permission to move this at once, and, if I am permitted, I shall give my reasons for doing so."

The hon. the PRESIDENT :—" The hon. Member is perfectly within his rights in asking for leave to move it at once. I am now to read out the draft of the amendment :—

Omit the full stop at the end, and add the words ' which shall be held separately for bills and for resolutions. '

" I have now to inquire whether the hon. Member has the leave of the House.

" No objection having been taken, I declare that the hon. Member has the leave of the Council.

" The draft amendment has now to be referred to a Select Committee of which the President shall be Chairman, and the Deputy President, the Advocate-General, and a Chairman of the Council to be nominated by the President, shall be members. I hereby nominate Mr. R. Venkataratnam Nayudu to be a member of the Committee, and then the remaining members of the Committee, six in number, have to be elected by the Council by means of the single transferable vote. I have to appoint a period within which notice may be handed to the Secretary by any member desiring to propose a member or members for election. I hereby fix 3 p.m. to-morrow afternoon as the period within which the notice required should be handed over to the Secretary."

VIII

THE MADRAS SURVEY AND BOUNDARIES BILL, 1921.

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB
12 noon. Bahadur :—" As the House will remember when this Bill was fully considered at the last sitting in the light of the amendments that had been tabled by hon. Members, I informed the House that I would defer my motion for passing the Bill into law until this day so that in the meantime I might examine the amendments which had been accepted by the House with particular reference to their effect on the other provisions of the Bill and consider what amendments, if any, consequential or otherwise, would be necessary. Having conducted that examination, I have tabled a few amendments as appearing on the agenda, and with a view to consider these amendments, I move the further consideration of the Bill."

The hon. Sir K. SRINIVASA AYYANGAR :—" I second it."

The hon. the PRESIDENT :—" Mr. Ramachandra Rao wishes to move an amendment to the effect that in clause 1 ' 1923 ' shall be substituted for ' 1922 '. The hon. Member's amendment is out of time and I inquire whether any hon. Member has objection to this amendment being allowed now."

No objection having been taken, the hon. Member was allowed to move his amendment.

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" Sir, I beg to move that in clause 1 *for ' 1922 ', ' 1923 ' be substituted*, so as to indicate that this Act was passed only this year and not last year."

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Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—" I second it."

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—" I accept it."

The amendment was accepted, and the substitution made. The clause as amended was added to the Bill.

Clause 11.

Sub-clause (2).

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—" I move, Sir, *that for ' 11 ' wherever it occurs substitute ' 11 (1) ', as it will be noticed that clause 11 is subdivided into two clauses as 11 (1) and 11 (2). The reference in subclause 2 to clause 11 should obviously be to 11 (1). I formally move that ' 11 (1) ' be substituted for ' 11 '.*"

The hon. Sir K. SRINIVASA AYYANGAR :—" I second it."

The clause as amended was put and carried and added to the Bill.

Clause 12.

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—" I move, Sir, the redrafting of this clause as it appears on the agenda.

" The redrafting will read thus :—

2. ' 12. (a) An appeal under section 11 shall be preferred within three months from the date of service of notice under section 8, 9 or 10, provided that the time taken to obtain a copy of the decision and of the map shall not be included in the period of three months allowed for appeal.

(b) No appeal preferred after the expiry of the said period shall be admitted, provided that the appellate authority may admit an appeal after the expiry of the said period on his being satisfied that the appellant had good and sufficient cause for not preferring the appeal within such period.

Explanation.—The fact that notice under section 8, 9 or 10 was not served personally on the appellant shall be deemed to be good and sufficient cause within the meaning of the above proviso.

(c) No appeal shall be admitted under sub-section (b) after the issue of the notification specified in section 13. "

" I may at once inform the House, Sir, that so far as sub-clauses (a) and (b) are concerned they are merely a redrafting of the existing clause (12); only the language has been somewhat improved by my hon. colleague the Law Member. In regard to the explanation, I may certainly add that I have omitted the words ' or that no notice was given to him ' which occur in the original explanation. It was considered unnecessary to retain these words inasmuch as the explanation makes it sufficiently clear that if no notice was served on any individual personally, that by itself shall be a ground for the admission of an appeal. In the face of the fact that the non-service of a notice personally is regarded as obligatory reason for the appellate authority to admit an appeal, it is equally correct to say that even if no notice was given to him then also the appeal should be admitted. The fact that no

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Clause 12—cont.

notice was served itself connotes that no notice was issued and therefore it was considered unnecessary to retain these words. Therefore, on the whole, the effect of the explanation, as intended by the mover of that amendment remains there.

" Clause (c) is new. I do not say ' new ' in the sense that it has been now imported with any the least intention of introducing new provisions. In a sense I would regard it as consequential—consequential on the explanation which has been added. I have never tired myself of repeating that the aim and purpose of legislation from the very commencement in regard to the surveys and demarcation of boundaries has been to secure a finality in the matter of such surveys and demarcations. The Select Committee which sat on the Bill which subsequently became law and is now in operation made it sufficiently clear in their report that they had secured by means of legislation, Act IV of 1897, such a finality as was necessary. The Legislative Council of those days which passed that Bill did not challenge that statement. The Courts of Law which administered that Act from 1897 to 1915 did not dispute that fact, but it was only for the first time in the year 1915 that the Madras High Court held that if finality was intended by the law, it could be made obligatory only in the case of individuals who had appeared before survey officers and contested the boundaries, but that it could not be made obligatory in the case of individuals who did not so appear or so contest. The object of this Bill is to secure finality in respect of all surveys and boundaries. With a view to secure this object, several modifications have been incorporated in the Bill whereby it has been rendered obligatory on the part of the survey officer to give notice of every single demarcation not merely to the individuals who appear before him and contest the decision, but also to every other individual whether he appears or not before the survey officer. So that, notice is given to all individuals alike whether they contest or not, and they have the right of appeal to the appellate authority and the same privileges which are now conceded to the parties who contest are extended to the parties who do not appear and contest. Having, therefore, brought all of them to one level and extended similar privileges and concessions, clause 13, which is the result of the previous provisions, aims at giving finality to the decisions of the survey officer, decisions which might have been taken under clause 9, 10 or 11. The explanation, if interpreted correctly by a Court of Law at a later stage, may mean that even if the notification which is prescribed under clause 13 has been issued, it will be open to any party to appear and prefer an appeal on the ground that the notice was not, in the first instance, served on him personally. It will be impossible to fix anything like a limitation of time within which a party may choose to do so. He may do it at any time he may like. The unfortunate consequence of such a procedure will be that although the notification has been issued under clause 13 and although under clause 13 the notification that has been issued is regarded as final, even then the doors of objection will remain always open, so that a notification which issued under clause 13 and which apparently claims finality on its behalf will not be final, but that throughout the whole period it will be open to any single individual to come forward and prefer an appeal, and this would be rendering the provisions of the whole Bill nugatory. It is, therefore, to protect the finality which has been allowed under clause 13 that Government considered it

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Clause 12—cont.

necessary to say definitely in clause (c) of the amended section that 'no appeal shall be admitted under sub-section (b) after the issue of the notification specified in section 13'. It may also be pointed out that it cannot be said that the party who intends to prefer an appeal under the provisions of this Bill will be precluded from asserting his right by reason of clause (c), for it will be remembered that under clause 14 the party has still got his door of remedy open. Under clause 14 he can file a suit in a Court of Law for the purpose of contesting a boundary that might have been surveyed by the Survey officer. While in the present Act there is only a period of one year allowed for the purpose of filing suits, in this Bill we have provided as long a period as three years, so that the party after the issue of final notification has still three years within which to file a suit and contest the boundary which has been surveyed by the Survey Officer. It was in view of these facts that we considered it necessary to include the sub-clause (c) as part of the re-drafted clause 12."

The hon. Sir K. SRINIVASA AYYANGAR :—" I second it."

Rao Bahadur A. S. KRISHNA RAO PANTULU :—" Sir, I think it is not desirable to accept sub-clause (c) of this re-drafted clause.

12-15 p.m.

It is a new provision altogether beyond the scope of the discussion which took place in this Council. If we all agreed upon a reconsideration of the Bill, which ought to have been passed at the last sitting, it was only for the purpose of setting right some defects in language and of improving the language of the Bill, but not that it should go in substance behind the resolutions of this House on the last occasion. I would point out that the explanation to clause 12, as passed at the last sitting, provides that where notice is not served personally on the appellant or where no notice is given to him, there is sufficient cause for the admission of an appeal after the expiry of the time allowed. It is true that the fact that notice is not served personally will include within its scope the fact that no notice is given and the explanation can be perfect as suggested in the re-draft. But the difficulty that will arise by adopting the new sub-clause (c) is that even in cases where, on account of mistake on the part of the officer concerned no notice is given to the party, he is not at liberty to ask for the admission of the appeal after the time allowed. That will be the effect of accepting sub-clause (c). It has been pointed out by the hon. the Revenue Member that the party has the remedy open to him, namely, that of filing the suit within three years after the notification. But we all know that if, without any notice being given to him, he should be called upon to file a suit to have the wrong remedied, it will be very hard indeed. The remedy allowed to him by the Act is much simpler and easier than the resort to a Court of Law and litigation which will certainly be productive not only of hardship, but substantial injury and pecuniary loss. For these reasons, I submit that though sub-clauses (a) and (b) may be passed, this House ought to reject sub-clause (c), because it is altogether a matter different from that covered by the previous discussions of this House and it will take away from the party concerned the privilege of having an appeal even in cases where no notice is given to him apart from cases where the notice is served personally.

"For these reasons, I oppose sub-clause (c) of this new clause 12."

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Clause 12—cont.

Rao Bahadur C. V. S. NARASIMHARAJU :—“ Mr. President, the intention with which the Legislature at the last sitting adopted the provision was that a person who has no notice of the survey proceedings personally or on whom no notice is served should not be bound by the survey operations. Now the explanation is amended and the words

or that no notice was given to him

have been omitted from the explanation as passed by this House. But it is stated that the present explanation covers both cases. I respectfully beg to differ from the hon. the Revenue Member in his interpretation. There are two distinct cases : the first is a case where a notice is issued but not served, and the second is a case where no notice is issued. It is quite possible to interpret the present explanation as covering only one case, namely, where notice is issued but not served, but not a case where no notice is issued at all. What I want to say is this : if a party to whom no notice is issued goes to the Appellate Court and says ‘ This is a case where no notice was issued at all and I was not able to know the fact within the time prescribed ; please, therefore, admit my appeal,’ the Court in all reasonableness may say, ‘ Your case is not contemplated by the explanation in the Act, because it covers only a case where a notice is issued and not served ; so we reject your application.’ So, for the sake of clearness it is better to retain the clause as it stood when passed at the last sitting, as we do not know what interpretation may be put by the courts if the explanation is amended as proposed now.

“ Regarding the new sub-clause (c) which is proposed to be introduced by the hon. the Revenue Member, I submit that it is quite against the spirit of the amendments carried at the previous sitting. The main intention was that in all cases where no notice is issued to the party or in all cases where no notice is served, there should not be finality of survey. Now if this new sub-clause is added, that intention will be greatly violated and parties will not have any advantage. My explanation is this : in the case of a person to whom no notice is issued or on whom no notice is served, he may be allowed to come at any time and move the survey authorities, and he may be heard. If the survey authorities are not going to allow the appeal, then he may under clause 14 file a suit. If we introduce the new sub-clause, his remedy will be barred for ever if he does not bring a suit within three years, and that is a danger which was not contemplated at the previous sitting. The main intention then was that in all cases where no notice is served or no notice is issued, the survey operations should not be binding upon such parties. Therefore I oppose the whole clause as redrafted.”

The hon. Sir CHARLES TODHUNTER :—“ Sir, may I, as a practical man, ask the hon. Members who are opposing these verbal alterations two plain questions ? The first, which is quite a simple one, is this : how can a notice be served without its having been issued ? The other question is : if you do not allow this sub-clause (c) to be passed, how can any survey ever be finished ? Any man can come forward and say that notice has not been served on or issued to him, and appeals will go on accumulating *ad infinitum*, and the Survey Department will have to leave men to deal with them. The House has often been heard to criticize the expenditure on the Survey Department, but if hon. Members are going to provide that no survey ever can be completed (which would be the result so long as anybody could prove that no notice had been served on him), then I am afraid that the expenditure

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Clause 12—cont.

will be very largely increased. I may say, in conclusion, that, as the hon. the Revenue Member has pointed out, the Act has been working very well since 1897, and there is nothing in the present proposal that is contrary to the experience of all these years since 1897. I therefore think that it would be wise to leave matters as they stand."

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR:—"Mr. President, I think that the two questions which the hon. the Leader of the House has suggested may be easily answered. So far as the issue of the notification goes, he is perfectly right when he says that there is no service when there is no issue of notice. But it is not that notification that is now thought of. It is the order in respect of which an appeal can be preferred, and when once the order is passed, of course it is capable of being served.

"So far as the second question goes, I do admit that there will be some difficulty in getting finality to the survey proceedings, but there is nothing like an appeal *ad infinitum* to which the hon. the Leader of the House referred. But such want of finality in the survey proceedings is due to the very inherent circumstances of the case. It is because a person for no fault of his has been deprived of the opportunity of appealing against an order by which he considered himself to be aggrieved, and because he wants that an appeal should be preferred, that he should be put in the same position as if the wrong for which he is in no way responsible has not been committed to him. That I think is a very reasonable view of the matter, and after all in such cases when in consequence of an appeal that is preferred in the circumstances contemplated there, the original order is in any way modified, there is nothing to prevent the register from being corrected so as to represent the true state of affairs after the appeal has been decided. So that, it seems to me, Sir, that as practical men anxious to do justice, the proper course for us will be to delete sub-clause (c) in the amendment that has been proposed by the hon. the Revenue Member."

The redrafted clause 12 was put to the House and declared carried.

Rao Bahadur A. S. KRISHNA RAO PANTULU:—"Sub-clause (c) has not been put, Sir."

The hon. the PRESIDENT:—"I have put the whole clause, including the sub-clause (c), to the House."

Sriman Biswanath Das Mahasayo demanded a poll which was taken with the following result:—

12-30 p.m.

Ayes.

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| 1. The hon. Sir Charles Todhunter. | 11. Mr. F. F. Thomas. |
| 2. " Khan Bahadur Sir Muhammad Habib-ul-Jah Sahib Bahadur. | 12. " E. Periyasayagam. |
| 3. " Sir K. Srinivasa Ayyangar. | 13. Rao Sahib T. C. Tangavelu Pillai. |
| 4. " the Raja of Panagal. | 14. Mr. A. Ramaswami Mudaliyar. |
| 5. " Rai Bahadur K. Venkatareddi Nayudu. | 15. Rao Bahadur T. A. Ramalinga Chettiyar. |
| 6. " Rao Bahadur A. P. Patro. | 16. Mr. S. T. Shanmukham Pillai. |
| 7. " Mr. A. K. Knapp. | 17. S. R. Y. Aukinedu Prasad Bahadur. |
| 8. Mr. E. S. Lloyd. | 18. Mr. M. Appalarasayya Nayudu. |
| 9. " A. Y. G. Campbell. | 19. " R. Appaswami Nayudu. |
| 10. " R. G. Grieve. | 20. Rao Sahib S. Ellappa Chettiyar. |
| | 21. Rao Bahadur P. C. Etbirajulu Nayudu. |
| | 22. Diwan Bahadur T. N. Sivagnanam Pillai. |

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Clause 12—cont.

Ayes—cont.

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| 23. Mr. W. Vijayaraghava Mudaliyar. | 37. Rao Bahadur C. B. Rama Rao. |
| 24. „ K. A. Kandaswami Kandar. | 38. Diwan Bahadur Sir T. Desika Achariyar. |
| 25. „ B. Muniswami Nayudu. | 39. Mr. T. Arumainatha Pillai. |
| 26. „ A. T. Muttukumaraswami Chettiyar. | 40. Rai Sahib E. C. M. Mascarenhas. |
| 27. „ M. Narayanaswami Reddi. | 41. Mr. A. T. Palmer. |
| 28. Rao Bahadur C. Natesa Mudaliyar. | 42. The Raja of Ramnad. |
| 29. Mr. C. Ponnuswami Nayudu. | 43. Sri Meka V. Apparao Bahadur. |
| 30. Rao Bahadur A. Ramayya Punja. | 44. Mr. K. Prabhakaran Tampam. |
| 31. Mr. W. P. A. Saundarapandiya Nader. | 45. Khan Sahib A. P. I. Saiyid Ibrahim Ravuttar. |
| 32. Mr. R. K. Shanmukham Chettiyar. | 46. Muhammad Abdur Rahim Khan Sahib. |
| 33. „ K. Sitaram Reddi. | 47. Khan Sahib Munshi Muhammad Abdur-Rahman Sahib. |
| 34. Diwan Bahadur K. Suryanarayana-murti Nayudu. | 48. Khan Bahadur Muhammad Sadulla Badsha Sahib. |
| 35. Diwan Bahadur R. Venkataratnam Nayudu. | 49. Mr. G. Vandanam. |
| 36. Mr. S. Muthumanikkachari. | 50. Rao Sahib G. Venkatarangayya. |

Noes.

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| 1. Mr. M. Adinarayana Reddi. | 6. Mr. C. V. Venkataramana Ayyangar. |
| 2. Diwan Bahadur M. Ramachandra Rao Pantulu. | 7. Sriman Biswanath Das Mahasayo. |
| 3. „ „ L. A. Govindaraghava Ayyar. | 8. Mr. T. M. Narasimbachari. |
| 4. Rao Bahadur A. S. Krishna Rao Pantulu. | 9. Sriman Sasibhushan Rath Mahasayo. |
| 5. „ „ C. V. S. Narasimha Raju. | 10. Diwan Bahadur D. Seshagiri Rao Pantulu. |
| | 11. Mr. M. R. Seturatnam Ayyar. |
| | 12. „ R. Srinivasa Ayyangar. |
| | 13. „ M. Suryanarayana Pantulu. |

The re-drafted clause 12 was declared carried, fifty members having voted for and thirteen against it.

Clause 13.

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur:—"Sir, I move—

3. *For the words 'shall be published in the village chavadi' substitute the words 'shall be posted in the village chavadi'.*

"This is merely an improvement in language. The word 'published' is rather inappropriate when it has reference to a particular building only. So I suggest that the word 'published' may be substituted by the word 'posted'."

Diwan Bahadur P. KESAVA PILLAI:—"I beg to second it, Sir."

Sriman BISWANATH DAS Mahasayo:—"Mr. President, Sir, all villages have not got chavadis. Therefore, I should like to know what the procedure would be in such villages as have no chavadi."

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur:—"The words 'if any' occurring in the clause answer the hon. Member's doubt." (Laughter.)

The amendment was put and carried.

Clause 14.

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur:—"Sir, I move—

4. *That the words 'subject to the provisions of Parts II and III of the Indian Limitation Act, 1908,' be omitted.*

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Clause 14—cont.

“Act X of 1922 which has since been passed by the Imperial Legislature makes it obligatory to apply all the provisions of Parts II and III to the proceedings even under special laws. It is therefore deemed unnecessary that any reference to those provisions should be made in this clause at all. They will apply automatically whether any reference is made to them or not in this clause. That is why I ask that those words may be deleted.”

The hon. Sir K. SRINIVASA AYYANGAR :—“I second it.”

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—“Sir, I have given notice of another amendment which is the reverse in some respects of what my hon. friend has proposed by his amendment. Hon. Members will see that a suit under clause 14 has to be instituted in civil courts after the publication of a notification under clause 13 of the Bill and that suit has to be filed within a period of one year. The present proposal of my hon. friend is to delete the words ‘subject to the provisions of Parts II and III of the Indian Limitation Act, 1908’. Part II of the Limitation Act contains exemptions in favour of various persons who are under legal disability. Section 4, which is a section in Part II, says :

Where the period of limitation prescribed for any suit, appeal or application expires on a day when the Court is closed, the suit, appeal or application may be instituted, preferred or made on the day that the Court re-opens.

As the suit has to be instituted within one year, this section is obviously applicable. Then, section 6 relates to the question of legal disability such as being a minor, or insane person, or an idiot. This section admits of the suit being instituted after the disability has ceased. Then, section 7 deals with cases where one of several plaintiffs or applicants is under a disability. Section 8 is a proviso to sections 6 and 7. Section 9 relates to the continuous running of time to all the suits instituted in those Courts. Then, we have sections 17 and 18 in Part III. Section 17 relates to the effect of death before right to sue accrues. That also applies to those suits. Section 18 relates to the effect of fraud upon suits.

“The hon. Member referred to Act X of 1922 of the Imperial Legislature. That Act lays down that the provisions contained in sections 4, 9 to 18, and 22 will apply to suits which may be instituted under any special or local law. These sections, namely, 6 to 8, are not at all mentioned in that enactment. That means that any person who is under a legal disability such as being a minor, or a lunatic or an idiot will not be allowed to institute their suits after the disability ceases. Therefore it seems to me that the provision made in sections 10 and 22 will not afford an effective remedy to persons who have to institute suits under all those sections. Moreover there are many sections which are obviously inapplicable to these suits and which are included in this Imperial Act X of 1922. Under these circumstances, I beg to oppose the amendment of my hon. friend the Revenue Member to delete entirely all reference to Parts II and III of the Limitation Act for the reason that suits have to be instituted by persons under legal disability and by persons referred to in all those sections. Therefore, I hope my hon. friend will withdraw his amendment and accept my amendment. Though my amendment refers to sections 4, 6 to 9, 17 and 18, the words ‘sections 6 to 8’ are practically enough.”

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Clause 14—cont.

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—" I have no objection to withdraw my amendment. I withdraw it, Sir."

The amendment was by leave of the House withdrawn.

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" My amendment is :

4-A. *For the words ' parts II and III ' substitute the words ' sections 4, 6 to 9, 17 and 18 '.*

" It is now proposed to retain only the words ' sections 6 to 8 ' as sections 4, 17 and 18 are mentioned in the other enactment."

Rao Bahadur A. S. KRISHNA RAO PANTULU :—" I second it."

The hon. Sir K. SRINIVASA AYYANGAR :—" I do not want to have any further confusion in that clause. I want to know whether you are going to delete parts II and III of the Limitation Act from this section 14 and whether instead you are going to insert only particular sections of the Act."

The hon. the PRESIDENT :—" I suppose the hon. Member wants to know what the motion is. The amendment is this : *for ' the words parts II and III ' substitute the words ' sections 6 to 8 '.*"

The hon. Sir K. SRINIVASA AYYANGAR :—" The difficulty may be that, if you introduce those particular sections, it may be considered as if it excludes the application of Act X of 1922. If my hon. friends are satisfied, I shall not object to it."

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—" As advised by my hon. colleague, if hon. Members here wish to insert only those particular sections, I have no objection."

Rai Bahadur T. M. NARASIMHACHARLU :—" Sir, I oppose this amendment. The amendment of Mr. Ramachandra Rao will narrow down to a great extent the privileges given to other persons mentioned in section 4 and the sections other than those mentioned by Mr. Ramachandra Rao."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" As my hon. friend has withdrawn his amendment, I also withdraw mine."

The amendment was by leave withdrawn.

*Clause 15.**Sub-clause (2).*

12-45 p.m. The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—" Sir, I beg to move—

5. *After the words ' registered holder ' insert the words ' in the prescribed manner '.*

" I make this motion because, if these words are not added, the impression will be that there is only one mode of service which is recognized by clause 15, viz., personal service ; whereas an alternative method is given in clause 15 (3). It is specifically mentioned there that, if the notice prescribed in sub-clause (2) cannot be served personally on the registered holder, a copy of the same shall be served also on the cultivator or other person interested

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Clause 15—cont.

in the land. In order to remove the obvious inconsistency which exists between clause 15 (2) and (3) I have suggested this amendment."

The hon. Sir K. SRINIVASA AYYANGAR :—"I second it."

The amendment was put to vote and carried.

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—"In the same sub-clause we find the word 'prescribed' occurring in the latter portion, viz.—

'to maintain, renew or repair the same within a time to be *prescribed* in such notice

The word 'prescribed' would be absolutely inappropriate in that place. For, the word 'prescribed' is given quite a different significance in this Bill, namely, that 'prescribed by rules framed by the Government under this Act'. In the place of that word I would substitute the word 'specified' simply for the improvement of the language."

The hon. Sir K. SRINIVASA AYYANGAR :—"I second it."

This amendment was put to vote and carried.

Sub-clause (3).

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—"I beg to move—

For the words 'prescribed in' substitute 'under.'

"In clause 15 (3) also the unfortunate word 'prescribed,' has crept in. I therefore suggest the substitution of the word 'under' for the words 'prescribed in.'"

The hon. Sir K. SRINIVASA AYYANGAR :—"I second it."

This was put to vote and carried.

Clause 19.

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—"I beg to move—

6 (a) *To omit the words 'provided that'.*

"In this clause, which is of course a redraft by the hon. Member who moved it, the words 'provided that' have been retained without any meaning or significance attached to them. It is true that these words found a place in the original clause. The redraft is somewhat different from the original clause and as such these words become out of place. I therefore propose that they may be eliminated."

The hon. Sir K. SRINIVASA AYYANGAR :—"I second it."

The motion was put to vote and carried.

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—"In the same clause I beg to move—

6. (b) *For the words 'prescribed by any law' substitute the words 'provided by any law'*

The hon. Sir K. SRINIVASA AYYANGAR :—"I second it."

The amendment was put to vote and carried.

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Clause 21.

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur:—"I beg to move—

7. *In the addition made in this clause after the word 'proprietor' insert the words 'as the case may be'.*

"This addition was made by the House. In the sentence beginning with

After giving notice to the tenant or proprietor in the manner provided in clauses 2 and 3 of section 15.

I want the words 'as the case may be' to be added after the word 'proprietor'. It is merely an improvement of language."

The hon. Sir K. SRINIVASA AYYANGAR:—"I second it."

The motion was put and carried.

Clause 25.

Sub-clause (i).

Mr. K. PRABHAKARAN TAMPAN:—"I beg to move—

8. *After the word 'acquire' in line 53 insert the words 'where there is an express or implied undertaking that such expenses shall be borne by the owner thereof'.*

"Sir, clause 25 enables the proprietor or registered holder of any estate or Government land under survey, who incurs any expenses or from whom any expenses are recovered under this Act in respect of such survey, to acquire, if he be not the owner thereof, a charge on such estate or Government land to the extent of the expenses so incurred . . . I am speaking with reference to the very large number of *kanam* holdings in Malabar. In the majority of cases the *kanamdars* pay only a nominal rent to the landlord and though there are no specific provisions to the effect the undertaking is that all Government assessment cess and other public dues should be paid by them (*kanam tenants*). If the provision in this clause is allowed to remain as it is, it may mean that the *kanam* tenant can recover if they choose all such payments with interest from the *jennies* at the time of the termination of the demise. So it is likely to be prejudicial to the interests of the *jennies*. I believe there are such cases in other parts of the presidency also. I therefore request the House to pass my amendment."

Sri Meka V. APPARAO Bahadur:—"I second the amendment."

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur:—"Sir, I am wholly in sympathy with the object of this amendment. But I am afraid that I do not fully appreciate the form in which it is worded. If the amendment is accepted, the clause will not convey the meaning which the hon. mover wishes it should. So if the hon. mover has no objection I should certainly like to add the words 'in the absence of a contract to the contrary' at the beginning of the clause itself."

Mr. K. PRABHAKARAN TAMPAN:—"I fear that if the wording proposed by the hon. the Revenue Member, viz., to add the words 'in the absence of a contract to the contrary' at the beginning of the clause is accepted, it would not make the position clear. But I have no objection to the addition if the hon. mover thinks that it will serve my purpose."

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Clause 25—cont.

The hon. the PRESIDENT:—"At present we cannot discuss the correctness or otherwise of an amendment which has not been moved. We are only discussing the amendment proposed by the hon. Member, Mr. Prabhakaran Tampam. Does the hon. Member propose to put his amendment to the vote?"

MR. K. PRABHAKARAN TAMPAN:—"I do, Sir."

The amendment was put to the vote and declared lost.

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur:—"If you will allow me, Sir, I will be glad to carry out my promise so far as this clause is concerned. I propose that the words—

'in the absence of a contract to the contrary' be added in the beginning of sub-clause (i).'"

The hon. Sir K. SRINIVASA AYYANGAR:—"I second it, Sir. I may say that the contract may either be express or implied."

MR. K. PRABHAKARAN TAMPAN:—"If I may do so, Sir, I would request the hon. mover to add those words 'express or implied' and the word 'custom' also."

The hon. Sir K. SRINIVASA AYYANGAR:—"We cannot bring in the word 'custom' now. The hon. Member has not done so even in his own amendment."

The amendment of the hon. the Revenue Member was put and carried.

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur:—"Sir, there is a consequential amendment to the amendment the House just now passed and that is to substitute small letter 'a' instead of capital 'A'. I move that this may be accepted."

The amendment was put and carried.

Clause 26.

Sub-clause (2).

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—"Mr. President, I move—

that in sub-clause (2) (d) before the word 'regulate' the words 'prescribed and' be inserted.

"This is necessary to enable the Government to prescribe the procedure of survey officers. Last time, I explained the reasons why some general rules should be prescribed."

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR:—"I second it."

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur:—"Sir, I accept the amendment."

The amendment was put to the House and carried.

Then the Preamble of the Bill was put and carried.

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur:—"Sir, I beg to move that the Bill as amended be passed into law"

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Clause 26—cont.

Diwan Bahadur P. KESAVA PILLAI :—" I second it."

The motion was put and carried.

At this stage, 1 p.m., the House adjourned for lunch.

The Council re-assembled after lunch at 2-30 p.m.

IX

A BILL TO PROVIDE FOR THE REORGANIZATION OF THE MADRAS UNIVERSITY, 1922.

The hon. Rao Bahadur A. P. PATRO :—" Sir, I beg to move that ' the Bill to provide for the reorganization of the Madras University ' as amended by the Select Committee be taken into consideration."

Mr. R. G. GRIEVE :—" I beg to second the motion."

The motion was put and carried.

Clause 1.

Sub-clause (2).

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—" Sir, I have given notice of two amendments in connexion with this clause, and the one is alternative to the other. The first amendment is :

9. *After the words ' on such date or dates ' insert ' after the 1st July 1928 ' ;*

The alternative amendment is :

If the above amendment be not carried, insert in the same place the words ' after the 1st July 1926 ' .

On consultation with some of my friends, I thought that I had better not move the first amendment, namely, that which relates to the five years. I therefore wish to confine my observations to the second amendment, namely, that this Act shall come into force on such date or dates after the 1st July 1926. In this amendment I seek to give effect to the idea that is already found in sub-clause (2) of clause 1. The House will notice that the sub-clause as it stands recognizes the possibility of the Act not being brought into force immediately after it is passed into law and that some interval should elapse between the passing of this Act and the bringing into force of its provisions. Now, the effect of my amendment is that this interval shall be a statutory one leaving the discretion of the Government unhampered with respect to the other principles contemplated by this sub-clause.

" As the House is aware, there has been a great deal of controversy with respect to the need for this Bill being passed now and to the Act being in the form proposed by this Bill. It is also to be recognized that the system of reforms which is going to be introduced if the Bill becomes law is one which will require, as I believe the hon. the Minister for Education has already recognized, the outlay of large funds. We want a capable machinery to be brought into existence, and there is also the need that the affiliated colleges contemplated by this Bill should adjust themselves to the new conditions that will arise when this Bill becomes law. I think all these things must of necessity take some time. So far as the Madras University is concerned, it